

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 1884 OF 2015

IN THE MATTER OF THE ESTATE OF JAMES KARIUKI GITAU (DECEASED)

RULING

1. The deceased herein died on 16th May 2013. On 11th August 2015, a citation issued to Anne Wambui Mwaura at the instance of Kelvin Gitau Kariuki and Mary Njoki Kariuki, requiring her to take or refuse to take out representation to the estate of the deceased. In the affidavit drawn in support of the proposed citation, the citors state that they were son and widow of the deceased, while the citee was a woman who lived with the deceased prior to his death. They state that the citee had not taken out letters and the citors were accordingly desirous of taking them out. Filed simultaneously with the affidavit is a letter from the Chief of Kikuyu Location, which identifies the citee as a widow and the male citor as a son of the deceased.

2. There is an affidavit of service on record indicating that the said citation was served on the citee. There is nothing on record to indicate whether or not she did appear. It would appear that her non-appearance prompted the citors to file the chamber summons seeking leave to file a petition.

3. The filing of the summons was needless. Citations are provided for under Part VI (Rules 21 to 24) of the Probate and Administration Rules. Upon citations issuing and being served, all what is required of the parties is to have the matter placed before a Judge for directions on who ought to petition for representation.

4. In this case, the citee was served with the citation. She has not responded to it, by either taking out the letters or refusing to. In view of that there is no option but for this court to direct the citors herein to accordingly file for representation to the estate of the deceased. The cause shall be filed only at the judicial station within whose jurisdiction the deceased owned property.

DATED, SIGNED and DELIVERED at NAIROBI this 3RD DAY OF FEBRUARY, 2017.

W. MUSYOKA

JUDGE